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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/092,738	03/07/2002	Joseph N. Veillon JR.	SEP-5794 (1417YP671)	7326

7590 11/04/2003

MARK J. BUONAIUTO, ESQ.  
Corporate Counsel, Law Department  
BAXTER INTERNATIONAL INC.  
One Baxter Parkway, DF3-2E  
Deerfield, IL 60015

EXAMINER
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RODRIGUEZ, CRIS LOIREN

ART UNIT	PAPER NUMBER
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3763

DATE MAILED: 11/04/2003

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Please find below and/or attached an Office communication concerning this application or proceeding.

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# Office Action Summary

Application No.

10/092,738

Applicant(s)

VEILLON ET AL.

Examiner

Cris L. Rodriguez

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 07 March 2002.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-34 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-5, 7-10, 12-21, 23-31, 33 and 34 is/are rejected.
- 7) ☒ Claim(s) 6, 11, 22 and 32 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 4-6.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

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## DETAILED ACTION

### ***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1-5, 7-10, 12-14, 29-31, 33, and 34 are rejected under 35 U.S.C. 102(e) as being anticipated by Odell et al (US 6,503,230).

Odell discloses, (figs. 3-4, and 11-12), a tip cap (sheath) 24 for a syringe having the elements as claimed. The cap has an inner cavity 40,42 with a frustoconical surface. The cavity also includes an annular ridge 56 (fig. 3) or a plurality of ridges (fig. 11).

### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-5, 7, 8-10, 12-14, 16-21, 23-31, 33 and 34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Arai et al (US 6,004,299) in view of Odell et al.

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**Arai** discloses the invention substantially as claimed. Arai discloses a cap 7 having an inner cavity to engage a syringe luer tip. However, Arai is moot to the cap material component and fails to disclose a plurality of adjacent annular ridges contacting the syringe luer tip and creating an annular seal therewith.

**Odell** teaches, in figures 3-4 and 11-12, a syringe cap(sheath) having annular ridges for sealingly engage the cap to the syringe tip/neck portion. Odell also teaches that the cap can be made of rubber, thermoplastic elastomer or plastics (Col. 3 lines 62-63). Given the teachings, it would have been obvious to one having ordinary skill in the art at the time the invention was made to include Odell's cap ridges into Arai's cap in order to improve the sealing engagement of the cap with the tip, and it would have been obvious to one of ordinary skill in the art to make Arai's cap out of rubber or a thermoplastic elastomer as evidenced by Odell, since the selection of a known material based on its suitability for its intended use supported a *prima facie* obviousness determination in *Sinclair & Carroll Co. v. Interchemical Corp.*, 325 U.S. 327, 65 USPQ 297 (1945).

5. Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over Arai et al in view of Odell et al, and further in view of Goodsir et al (US 4,753,345).

**Arai/Odell** disclose the invention substantially as claimed as disclosed above.

Arai/Odell disclose that the cap can be made out of rubber (see rejection above).

However, Arai/Odell fail to disclose the cap made of specifically chlorobutyl rubber.

**Goodsir** teaches a cap made out of rubber, specifically chlorobutyl rubber component (Col 2 lines 6-21). Given the teachings, it would have been obvious to one

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having ordinary skill in the art at the time the invention was made to make Arai/Odell's cap with Goodsir's cap rubber material, since the selection of a known material based on its suitability for its intended use supported a *prima facie* obviousness determination in *Sinclair & Carroll Co. v. Interchemical Corp.*, 325 U.S. 327, 65 USPQ 297 (1945).

***Allowable Subject Matter***

6. Claims 6, 11, 22, and 32 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

7. The following is a statement of reasons for the indication of allowable subject matter: the art of record does not teach or render obvious a tip cap having a cavity wherein the diameter of the cavity distal end is larger than a diameter at an end of the syringe tip.

***Conclusion***

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Urbanai, Odell et al, Vitello, Sudo et al, Jansen et al, Reihhard et al, Kakiuti, and Vetter et al.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Cris L. Rodriguez whose telephone number is (703) 308-2194. The examiner can normally be reached on 7:30 am - 4:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brian Casler can be reached on (703) 308-3552. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0858.

October 29, 2003

  
Cris L. Rodriguez  
Examiner  
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